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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

In re Petition of  
  
COMMUNICATIONS SATELLITE CORPORATION  
  
For repeal of Section 25.131(j)(1)  
of the Commission's Rules and, in the  
interim, for waiver of that Section  
as it applies to services provided  
via the INTELSAT K satellite

Rm-7931  
INTERNATIONAL FACILITIES DIVISION  
COMMON CARRIER BUREAU

FEB 24 1992

ISP-92.004

PETITION FOR REPEAL AND,  
IN THE INTERIM, FOR WAIVER

Communications Satellite Corporation, through its COMSAT World Systems business unit ("COMSAT"), pursuant to Sections 1.401 and 1.3 of the Commission's Rules, hereby petitions for repeal of Section 25.131(j)(1) of those Rules and, in the interim, for waiver of that Section of the Rules as it applies to services provided via the new INTELSAT K satellite. Section 25.131(j)(1) currently specifies that receive-only earth stations operating with INTELSAT space stations (except for receive-only earth stations used to receive INTELNET I services) shall file an FCC Form 493 requesting a license for such stations.

DISCUSSION

The Commission has long since decided not to require licenses for domestic receive-only earth stations. This policy

was first adopted in 1979,<sup>1</sup> and the trend toward deregulation of such stations has been continued in two subsequent orders, in 1986<sup>2</sup> and 1991.<sup>3</sup> Today, domestic receive-only earth stations are subject only to a voluntary registration program. The Commission also determined in its 1986 Equatorial ruling that receive-only earth stations operating with the INTELSAT system for the provision of INTELNET I services need not be subject to any licensing requirement.<sup>4</sup>

In each of its previous orders, the Commission concluded that the Communications Act of 1934 does not require the licensing of receive-only antennas since Title III of that Act is concerned only with radio transmissions. The Commission further determined in its Equatorial ruling that the Communications Satellite Act of 1962 ("Satellite Act") also does not require licensing of receive-only antennas. To date, however, the Commission has declined to eliminate the licensing requirement for international receive-only earth stations other than INTELNET

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<sup>1</sup> See Deregulation of Domestic Receive-Only Satellite Earth Stations, 74 FCC 2d 205 (1979).

<sup>2</sup> See Deregulation of Domestic Receive-Only Satellite Earth Stations, 104 FCC 2d 348 (1986).

<sup>3</sup> See Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communications Services, 6 FCC Rcd 2806 (1991) ("1991 Order").

<sup>4</sup> Deregulation of Receive-Only Satellite Earth Stations Operating with the INTELSAT Global Communications Satellite System, FCC 86-214 (released May 19, 1986) ("Equatorial").

I earth stations, due to concerns about U.S. obligations to INTELSAT and Inmarsat.

In concluding its recent review of Part 25 rules governing satellite communications, the Commission stated that the record in that proceeding (RM-4206) was insufficient to decide whether and under what conditions current licensing requirements for international receive-only earth stations might be relaxed consistent with international obligations.<sup>5</sup> However, the Commission also suggested that further review of this issue might be desirable in a separate proceeding.<sup>6</sup> COMSAT believes that the time has now come for the Commission to eliminate the licensing requirement for all receive-only earth stations operating with INTELSAT satellites.<sup>7</sup>

As the U.S. Signatory to INTELSAT, COMSAT is responsible for ensuring that operators accessing that system comply with the pertinent rules and standards of the INTELSAT organization. The sole concern in this regard is with transmissions, since only

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<sup>5</sup> 1991 Order at 2807-08.

<sup>6</sup> Id.

<sup>7</sup> While COMSAT's specific request is limited to the INTELSAT earth stations covered by Section 25.131(j)(1) of the Rules, we believe that the same considerations apply to all receive-only earth stations operating with international space stations. In our view, the Commission should apply the same voluntary registration process to international receive-only earth stations that it now applies to domestic receive-only earth stations. Accordingly, COMSAT supports the complete repeal of Section 25.131(j).

they present the potential for harmful interference. There is no INTELSAT requirement that receive-only earth stations operating with the system be licensed by member administrations. Indeed, a number of foreign countries, including the members of the European Economic Community, already permit unlicensed receive-only earth stations to access INTELSAT. Therefore, repeal and interim waiver of the Commission's current licensing requirement would not be inconsistent with any U.S. obligations to INTELSAT.

There is also nothing in the Satellite Act or the Communications Act that precludes the elimination of the current licensing requirement. This issue was first addressed in the 1986 Equatorial ruling. There, the Commission concluded that receive-only INTELNET I earth stations are not "satellite terminal stations" subject to Section 201(c)(7) of the Satellite Act, and that, in any event, earth station licensing was governed by Title III of the Communications Act, not Section 201(c)(7).<sup>8</sup>

The Commission also concluded in Equatorial that, since receive-only earth stations are "passive device[s]," they "do not raise the regulatory concerns that [Title III] licensing was intended to control," i.e., the conservation of spectrum and the prevention of harmful interference.<sup>9</sup> Finally, the Commission determined that Section 605 of the Communications Act gave it

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<sup>8</sup> Equatorial at 7-8 (¶¶ 13-14).

<sup>9</sup> Id. at 10-11 (¶ 16).

ample authority to meet its obligation under the ITU Radio Regulations to prevent the unauthorized reception of radio signals.<sup>10</sup> For all these reasons, the Commission concluded that it could, and should, forbear from licensing INTELNET I earth stations.

Although the Equatorial ruling was limited to INTELNET I earth stations, the same reasoning applies with respect to other international receive-only earth stations accessing INTELSAT. Such earth stations are not an integral part of any domestic common carrier system (and, thus, are not subject to Section 201(c)(7)), and they are also "passive devices" that cannot possibly cause problems with respect to spectrum conservation or harmful interference. As indicated above, the U.S. has had extensive experience domestically with unlicensed receive-only earth stations, and Section 605 of the Communications Act is just as applicable to other types of international receive-only earth stations as it is to INTELNET I earth stations (and to domestic receive-only earth stations). Accordingly, there is no legal impediment to adopting the same non-licensing approach for international receive-only earth stations that the Commission has long applied in the domestic sphere.

There are also compelling policy reasons to forbear from licensing international receive-only earth stations. As

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<sup>10</sup> Id. at 11-12 (¶ 17).

INTELSAT's service capabilities have developed (for example, with the high-powered INTELSAT K), new opportunities have arisen for COMSAT's customers to access the INTELSAT system using receive-only earth stations. It would be unreasonable to expect U.S. customers to undergo the burdensome process of individually licensing receive-only earth stations for use with the INTELSAT system when such licensing serves no legitimate purpose. Moreover, the administration of such a licensing program would place unnecessary strain on the Commission's already scarce resources. Repeal of Section 25.131(j)(1) will thus further Commission policies and serve the public interest by increasing service options, reducing customer cost, promoting the rapid introduction of service and freeing up Commission resources for other purposes. Indeed, repeal is particularly appropriate at this time, given the Administration's and the Commission's efforts to move quickly to eliminate unnecessary regulations that impair growth and burden the U.S. economy.

Pending such repeal, COMSAT respectfully requests that the Commission grant an expeditious waiver of Section 25.131(j)(1) with respect to services provided via the INTELSAT K satellite. This satellite is scheduled for launch in May, 1992, and COMSAT has customers who are actively interested in using it to provide service to receive-only earth stations in the United States. Such service will be delayed without any public interest justification unless the Commission acts quickly to remove the

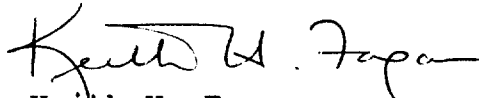
licensing requirement for such earth stations. Accordingly, a waiver is needed so that COMSAT's customers, and U.S. consumers generally, can be sure of getting the maximum benefit from this new high-powered satellite.

### CONCLUSION

For the reasons stated above, COMSAT supports the elimination of all FCC rules requiring licensing of international receive-only earth stations, and specifically urges the Commission to repeal Section 25.131(j)(1) of its Rules so that receive-only earth stations operating with the INTELSAT system will not be subject to any licensing requirement. In the interim, COMSAT requests the Commission to grant expeditiously a waiver of Section 25.131(j)(1) as it applies to the reception of services via the INTELSAT K satellite.

Respectfully submitted,

COMMUNICATIONS SATELLITE CORPORATION  
COMSAT World Systems



Keith H. Fagan  
Linda M. Wellstein  
950 L'Enfant Plaza, S.W.  
Washington, D.C. 20024  
(202) 863-6011

Its Attorneys

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